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October 6, 2022

Via ECF

Southern District of New York
Attn: Hon. Jennifer L Rochon.
United States Courthouse
500 Pearl St. Court Room 20B
New York, NY 10007-1312

**RE: HYUNHUY NAM v. PERMANENT MISSION OF THE REPUBLIC OF KOREA TO
THE UNITED NATIONS, et al.
CASE NO.: 1:21-cv-6165-RA
JOINT CASE STATUS**

Dear Judge Rochon:

Please be kindly advised that this firm represents the Defendant, the Permanent Mission of the Republic of Korea to the United Nations (“Defendant”), in the above-referenced matter. We file this case status jointly with counsel for Plaintiff, Hyunhuy Nam.

1. Parties and Counsel Information

a. Counsel for Plaintiff.

Plaintiff, Hyunhuy Nam, is represented by the following attorneys:

Yongjin Bae, Esq.
Ge Qu, Esq.
Jian Hang, Esq.
Hang & Associates, PLLC
136-18 39th Avenue, Suite 1003
Flushing, NY 11354.
ybae@hanglaw.com
rqu@hanglaw.com
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Plaintiff’s counsel’s contact information is accurately reflected in the ECF docket.

b. Counsel for Defendant.

Plaintiff had initially filed this matter against the Defendant and three individual defendants. All claims against individual defendants have been dismissed by Judge Nathan’s

January 21, 2022, Order. Thereafter, the caption in this matter has been amended to remove these individuals by Order filed February 16, 2022.

The only remaining defendant, Permanent Mission of the Republic of Korea to the United Nations, is represented by the following attorneys:

Joshua S. Lim, Esq.
Sean S. Kwak, Esq.
Nick J. DuBois, Esq. (of counsel)
Power J. Chen, Esq.
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Defense counsel's contact information is also accurately reflected in the ECF docket.

2. Statement of the Case

Plaintiff alleges various employment-related claims, including for unpaid regular and overtime wages, statutory damages, and age discrimination under the Fair Labor Standards Act ("FLSA"), the New York Labor Law, New York State Human Rights Law, and New York City Human Rights Law. Plaintiff acknowledges that Defendant is a sovereign state within the meaning of the Foreign Sovereign Immunity Act, 28 U.S.C. § 1602, et seq. ("FSIA"), but seeks to benefit from the "commercial activities" exception thereunder, codified in 28 U.S.C. § 1610(b).

Defendant denies all allegations of wrongdoing or violations of federal, state, and local laws. More importantly, Defendant asserts that it is immune from lawsuits in the United States pursuant to the FSIA and that no exception to the immunity applied here.

The parties' respective assertions were set forth in their respective motions for summary judgment, which has been fully briefed.

3. Basis for Jurisdiction and Venue

As set forth in the complaint, Plaintiff asserts this Court has jurisdiction pursuant to the FSIA, 28 U.S.C. §§ 1602-05 (exceptions), 1603(a) and 1351; the FLSA, 29 U.S.C. § 216(b); and further pursuant to 28 U.S.C. § 1331 (federal question).

Defendant disputes Plaintiff's basis for jurisdiction and asserts the Court lacks personal and subject matter jurisdiction over the claims in this matter, as it is immune from suit in the United States pursuant to FSIA, 28 U.S.C. § 1604, without application of any exceptions.

The parties' respective arguments concerning this Court's jurisdiction are briefed in their respective motions for summary judgment.

Aside from the question of jurisdiction, the parties agree the venue is properly laid in the Southern District of New York pursuant to 28 U.S.C. 1391 (b)(2).

4. Current Deadlines

The parties have completed discovery and have filed their respective motions for summary judgment. There are no upcoming deadlines in this matter.

5. Previously Scheduled Conferences

There are no previously scheduled conferences that have not yet occurred in this matter.

6. Description of Outstanding Motions

Plaintiff filed his motion for partial summary judgment, seeking judgment on Defendant's liability for his employment-related claims. Plaintiff's motion has been fully briefed as of September 19, 2022.

Defendant filed a motion for summary judgment, seeking to dismiss the entire action based on sovereign immunity pursuant to the FSIA. Defendant's primary argument focuses on the non-commercial nature of Plaintiff's employment: a chauffeur for the high-ranking government Ministers, which this Court has long held were "undoubtedly governmental" and therefore immune from suit in the U.S. Figueroa v. Ministry for Foreign Affairs of Sweden, 222 F. Supp. 3d 304, 313-15 (S.D.N.Y. 2016). Defendant's motion has been fully briefed as of September 19, 2022.

7. Pending Appeals

There are no pending appeals in this matter.

8. Discovery to Date

All written discovery and depositions have been completed. Discovery is closed and there is no pending discovery-related issue.

9. Settlement Discussions

The parties have not had any settlement discussions and do not anticipate any.

10. Alternate Dispute Resolution

The parties have not discussed any alternative dispute resolution mechanisms and do not anticipate engaging in any.

11. Estimated Length of Trial

Plaintiff estimates the trial will take four (4) days.

Defendant believes this matter should be dismissed on summary judgment. If, however, this case needs to be tried, Defendant estimates the trial will take four (4) days.

12. Additional Information.

The parties respectfully submit that the parties' respective positions are detailed in their summary judgment motions.

Thank you, Your Honor, for your time and attention in this matter.

Respectfully yours,

/s/ Joshua S. Lim

Joshua S. Lim

Cc: counsel for Plaintiff – via ECF